

ORIGINAL
Transcript of Proceedings

BEFORE THE

Federal Communications Commission

-----X

In the Matter of:	:	
ORDER TO SHOW CAUSE DIRECTED	:	
AGAINST MARIO J. GABELLI	:	Docket No.
and	:	92-201
GABELLI FUNDS, INC.	:	

-----X

RECEIVED
SEP 16 1992
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Date: September 9, 1992
Place: Washington, DC
Pages: 1 - 32

Capital Hill Reporting

Official Reporters
1825 K Street, N.W.
Washington, D.C. 20006
(202) 466-9500

No. of Copies rec'd 0 + 3
List A B C D E

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

- - - - - x

In the Matter of: :

Order to Show Cause Directed Against:

MARIO J. GABELLI : MM Docket No.

and 92-201

GABELLI FUNDS, INC. :

- - - - - -x

The above-entitled matter came on for
prehearing conference, pursuant to Notice before Joseph
Stirmer, Chief Administrative Law Judge, at 2000 L
Street, Northwest, Courtroom No. One, Offices of the
Commission, Washington, D.C., Wednesday, September 9,
1992, at 9:00 a.m.

APPEARANCES:

On Behalf of Mario Gabelli and Gabelli Funds,
Inc.:

M. ANNE SWANSON, ESQ.

ALAN Y. NAFTALIN, ESQ.

HERBERT D. MILLER, JR., ESQ.

Koteen & Naftalin

1150 Connecticut Avenue

Washington, D.C. 20036

CAPITAL HILL REPORTING, INC.
(202) 466-9500

1

2

APPEARANCES (Continued):

3

On Behalf of FCC:

4

LARRY MILLER, ESQ.

5

GARY SCHONMAN, ESQ.

6

Mass Media Bureau

7

2025 M Street, N.W.

8

Room 7212

9

Washington, D.C. 20554

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

(Time Noted: 9:04 a.m.)

JUDGE STIRMER: Good morning.

This is a prehearing conference in Docket No. 92-201 involving an Order to Show Cause directed against Mario J. Gabelli and Gabelli Funds, Inc.

This case was designated for hearing by Order released August 21, 1992 and by Order of the Chief Administrative Law Judge released August 27, 1992. I was designated to preside.

I would like at this time to obtain the appearances. For Mario J. Gabelli and Gabelli Funds, Inc.?

MR. NAFTALIN: Alan Naftalin, Herbert D. Miller and M. Anne Swanson of Koteen & Naftalin.

JUDGE STIRMER: And for the Bureau?

MR. MILLER: Larry Miller and Gary Schonman on behalf of the Mass Media Bureau.

JUDGE STIRMER: Very well. Mr. Naftalin, I notice you filed your notice of appearance.

MR. NAFTALIN: Yes, Your Honor.

JUDGE STIRMER: Yesterday you filed the informational statement that was required by the Order to Show Cause.

MR. NAFTALIN: Yes. And also a motion, Your

1 Honor, on Friday, for clarification.

2 JUDGE STIRMER: That's correct. I also have
3 received a petition for leave to intervene, filed by
4 Garden States Broadcasting Limited Partnership. Do you
5 all intend to respond to that?

6 Mr. Miller?

7 MR. MILLER: Yes. The Bureau will be filing
8 its pleadings, its opposition, today.

9 MR. NAFTALIN: Your Honor, I just learned of
10 it this morning when Mr. Burkfield handed me a copy.
11 Apparently service was noted on Mr. Gabelli, but his
12 general counsel has not received it and I have not
13 received it. We will oppose it. I understand the due
14 date is Friday. And I would like to request an extra
15 couple of days on that.

16 JUDGE STIRMER: Do you have any objection to
17 that, Mr. Miller?

18 MR. MILLER: No, I don't have any objection
19 to it.

20 JUDGE STIRMER: Mr. Burkfield, I notice
21 you're in the court room but you're not a party to this
22 proceeding.

23 MR. BURKFIELD: No. I just wanted to respond
24 to the question on the petition for leave to amend.
25 When we filed it, Koteen & Naftalin had not entered

1 their appearance. So we sent it to Mr. Gabelli's
2 office in New York. I brought a copy this morning just
3 in case it didn't filter through to Mr. Naftalin. We
4 have no objection to his having time to respond.

5 JUDGE STIRMER: Very well.

6 How much time do you need, Mr. Naftalin.

7 MR. NAFTALIN: Tuesday of next week, Your
8 Honor.

9 JUDGE STIRMER: Very well. You have it.

10 MR. NAFTALIN: Thank you.

11 MR. MILLER: Your Honor, we'll submit ours on
12 the same date that they do.

13 JUDGE STIRMER: Tuesday of next week.

14 MR. MILLER: Right.

15 JUDGE STIRMER: Very well.

16 Mr. Miller, have you had an opportunity to
17 examine the motion for clarification of the order to
18 show cause?

19 MR. MILLER: Yes, Your Honor. I've looked at
20 it. The Bureau is ready to discuss it this morning.
21 We do want an opportunity to file a written response
22 which I believe would be due Friday.

23 JUDGE STIRMER: All right.

24 MR. MILLER: But there are some issues raised
25 in here concerning the Order to Show Cause. We are

1 prepared to discuss them this morning.

2 JUDGE STIRMER: Before we get to that,
3 however, let me inquire as to paragraph 10 of the Order
4 to Show Cause which contains provisions for a request
5 for personal interview with an official of the
6 Commission at the field office nearest to its place of
7 residence or at the Commission's offices in Washington,
8 D.C.

9 Now, has anything been done to provide Mr.
10 Gabelli or Gabelli Funds, Inc. with that personal
11 interview?

12 MR. MILLER: Mr. Gabelli has not requested
13 that interview at this point. The Bureau is ready to
14 meet with him and provide him with that personal
15 interview, either at the field office near his
16 residence or hear in Washington.

17 The rule, 1.80 of the Commission's rules,
18 says the normal time period is 30 days to request
19 this. Since this is an expedited proceeding, we would
20 prefer that Your Honor specify some earlier date for
21 him to notify that he intends to exercise this right to
22 have a personal interview. It's in 1.80 -- let me get
23 the subsection -- 1.80(d) preliminary procedure. It
24 says given a reasonable opportunity, usually 30 days,
25 to request a personal interview.

1 JUDGE STIRMER: All right.

2 MR. MILLER: But the Bureau would request
3 that Your Honor require that Mr. Gabelli, hopefully by
4 the end of this week, to notify the Bureau of whether
5 he desires a personal interview and where he would like
6 to have it.

7 JUDGE STIRMER: Well, let me direct that
8 question to Mr. Naftalin.

9 MR. NAFTALIN: Well, Your Honor, this
10 question is directly related to the motion for
11 clarification, or the other way around, depending on
12 how you look at it.

13 JUDGE STIRMER: Well, we can discuss them
14 together.

15 MR. NAFTALIN: That's fine. As we read that
16 provision which comes from the statute as a
17 precondition to the imposition of forfeitures on
18 nonlicensees, and including legislative history, which
19 we cite in our motion, the Commission at the point of
20 that interview is obligated not only to put out a sort
21 of general explanation of the rules, but is required to
22 identify to the nonlicensee the facts which cause the
23 rules to be applicable to that particular alleged
24 violation, and not just say well, we have -- in this
25 case for example, we have four multiple ownership rules

1 and you should be in compliance with them.

2 But rather, the point at which the statute as
3 we understand it contemplates a personal interview is
4 when the Commission has formed the determination that
5 there has in fact been a violation and what it is.

6 Now, where we are in the process here is a
7 stage before that. The show cause order I think makes
8 it clear that the Commission doesn't know, has not
9 identified what violations there are. It's identified
10 certain things in paragraph 2 -- I believe it's 2 -- as
11 possibilities.

12 As I understand it, the purpose of asking for
13 the information in paragraph 6 of the show cause order
14 is to start the process of an actual determination as
15 to what violations there are. Even that paragraph does
16 not call for a list of -- it calls for a list of
17 holdings and of related interests, media or telephone
18 interests. But it does not call for -- you have to
19 take steps beyond that if you are going to identify
20 whether there are violations.

21 That hasn't happened yet. And in view of the
22 hearing procedure which the Commission has adopted
23 here, that is, to issue a show cause order and have an
24 adjudication before what I would characterize as the
25 normal process of finding out -- what the more

1 ordinary, anyway, process of finding out what the facts
2 are, we suggested in our motion that the only logical
3 way to look at this personal interview would be really
4 your cease and desist order, if you ever come to issue
5 on it.

6 JUDGE STIRMER: Well, I don't look at it that
7 way. I don't get involved in any kind of a personal
8 interview, Mr. Naftalin.

9 MR. NAFTALIN: I understand you would
10 normally not do that.

11 JUDGE STIRMER: Of course this is an
12 adjudicatory proceeding.

13 MR. NAFTALIN: Right.

14 JUDGE STIRMER: And I certainly would not be
15 in a position to meet individually with any party to
16 this proceeding.

17 MR. NAFTALIN: Well, no; I understand that.

18 JUDGE STIRMER: So I believe your suggestion
19 and your motion to clarify, that I would be the
20 official who would meet with Mr. Gabelli is simply
21 wrong. Let me hear from Mr. Miller.

22 MR. NAFTALIN: If I could just add one thing.
23 I did not intend, Your Honor, to suggest an ex parte
24 meeting. My suggestion was that the actual issuance of
25 the show cause order was a surrogate for that personal

1 interview.

2 MR. MILLER: Let me start out with, first of
3 all, the notice of citation, which this order
4 constitutes, is in paragraph 3, it clearly indicates
5 that it's relating to Section 73.35.55, 76.501(a) of
6 the Commission's rules, and Section 613 of the
7 Communications Act.

8 The notice of citation does not apply to the
9 common carrier or MDS rules. I would agree with them
10 on that there's not sufficient notice about the common
11 carrier ownership interest because the Commission was
12 unaware of those interests at the time. However, I
13 disagree, and I think that this order is sufficiently
14 specific as to the interests the Commission was aware
15 of at the time, and that they listed in paragraph 2.

16 They go on to say then that attributable
17 interests set forth above, held directly or indirectly
18 by Mr. Gabelli and Gabelli Funds, Inc., conflict with
19 these multiple and cross ownership rules and the
20 statute, and therefore impermissible holdings under the
21 rules and statute.

22 I think that's fairly clear. They say, well,
23 there might be others. But as to the ones they were
24 aware of, they said that it constituted a violation.
25 So they have been put on notice that this is a notice

1 of citation as to those interests. Now, they may say
2 there are different interests or they don't own
3 interests. That may come later on.

4 But as far as the notice of citation, we
5 believe that this is sufficiently specific to
6 constitute that notice of citation. And once we have
7 the personal interview, then the criteria called for
8 under the Act, under Section 503(b)(5) would have been
9 complied with.

10 I'll just add at this point that we do agree
11 with Mr. Gabelli that this Order to Show Cause does not
12 authorization Your Honor to impose a forfeiture.
13 There's no provision in here that calls for that. And
14 what it does call for, it has a proceeding on an Order
15 to Show Cause why they should not be ordered to cease
16 and desist from any rule violations. And it also
17 constitutes a notice of citation as to the Mass Media
18 and cable ownership.

19 JUDGE STIRMER: And that is the preliminary
20 step or the prelude --

21 MR. MILLER: That is the first step.

22 JUDGE STIRMER: -- in the process of imposing
23 a forfeiture.

24 MR. MILLER: That's right. Because he is a
25 nonlicensee, the Commission must issue a notice of

1 citation, give him an interview. Then if there are any
2 further or continuing violations, then the next step
3 would be to issue a notice of apparently liability.

4 JUDGE STIRMER: Either that or issue a notice
5 of opportunity for hearing.

6 MR. MILLER: Right. Yes. It could go either
7 way. But another step would have to be taken before
8 any forfeiture could be imposed. And we agree with
9 them on that position. But we disagree -- we think
10 that this is an adequate notice of citation that's
11 contained in this.

12 MR. NAFTALIN: Your Honor, our difficulty
13 with that position is that it makes this show cause
14 proceeding an anomaly, it seems to us. What is the
15 point of a show cause order which sets up a proceeding
16 the end result of which will or will not be an order to
17 cease and desist from violating something, if in the
18 meantime there's some kind of parallel track in which
19 the Bureau goes along and has interviews or offers to
20 opportunity for interviews and then starts assessing
21 violations.

22 JUDGE STIRMER: That's the way the statute is
23 worded. Now, I'm satisfied that the Commission could
24 have proceeded separately, on two separate tracks.
25 They just elected here to combine the two by issuing

1 this show cause order and also declaring that it would
2 serve as a citation.

3 But let's get down to the realistic matter
4 before us. Are these matters that you want to
5 litigate? I mean, it seems to me based on the
6 information that you provided, there's a reference in
7 your letter that you don't want to be in violation of
8 these rules; that you want to bring yourself in
9 compliance with these rules. And I think that's all
10 the Commission seeks to do by the institution of this
11 proceeding -- to bring you into compliance with the
12 applicable rules.

13 So we can talk about litigating this from
14 today until tomorrow, but I don't think anybody really
15 wants to do that. The way I've read your submission of
16 this statement. I think we ought to start talking in
17 terms of seeing how we can resolve this thing
18 effectively and quickly.

19 Now, does anyone have any suggestions along
20 those lines?

21 MR. NAFTALIN: Could I just comment on that?

22 JUDGE STIRMER: Certainly.

23 MR. NAFTALIN: I want to make our position as
24 clear as possible here. We are cooperating as fully as
25 possible with the show cause order, with the

1 Commission's order. There was an enormous amount of
2 work on very, very short notice called for, which was
3 produced yesterday in response to the show cause order.
4 And it was the kind of information that is not readily
5 available, and the kind of information that is not
6 maintained in the Commission's files. And we did the
7 best we could to furnish the information that would be
8 relevant to the issues even when in our view the order
9 didn't really -- called for something different that
10 would not be relevant as far as the telephone cable
11 issues are concerned.

12 So we really want to cooperate. Nobody wants
13 to be recalcitrant. At the same time, the Respondents
14 here have certain legal rights and they are entitled to
15 stake out legal positions. Our position is that they
16 are not in violation of the rules and that the rules
17 are not addressed to that. In fact, the rules are
18 addressed to licensees, not to shareholders.

19 At the time, we made it very clear that what
20 we really want to do is resolve this short of a hearing
21 if it can be done in a way that is readily feasible.

22 JUDGE STIRMER: Well, it seems to me that the
23 interests that you own are not subject to dispute to
24 the extent that you know them and you revealed them. I
25 don't know whether the Bureau has an additional

1 information as to other ownership interests.

2 MR. NAFTALIN: Correct.

3 JUDGE STIRMER: So as far as the facts are
4 concerned, there should not be a dispute as to what
5 those are.

6 MR. NAFTALIN: The difficulty about the facts
7 is not the ownership of the shares, Your Honor. It's
8 the interests of the various companies. That is not a
9 broadcast problem. That is a problem with regard to
10 the others.

11 JUDGE STIRMER: Is that a factual question?

12 MR. NAFTALIN: Yes. It's not a problem with
13 the particular rules that are the subject of the
14 citation, which are the broadcast rules and the cable
15 rule. The problem arises because in paragraph 6,
16 information was requested with regard to several other
17 rules, particularly the cable telephone cross-ownership
18 rules and the MMDS rule.

19 Now, this was the first intimation that we
20 had that this was a question. In the case of the
21 telephone cable cross-ownership rules, are implicated
22 when you have a telephone company, local exchange
23 company, with a particular cable system's wires going
24 along the telephone line, the polls.

25 The Respondents here have interests in

1 telephone holding companies. Now, the telephone
2 holding companies in turn have subsidiaries, direct or
3 indirect, which have local exchanges. The local
4 exchanges are not licensees of the Commission or don't
5 have to be; sometimes they are for other purposes.

6 The location of the license and the location
7 of the exchange are not necessarily the same, however.
8 And the cable companies also are usually not licensees
9 with respect to the cable that's going along the
10 telephone company's lines.

11 So for a shareholder and -- holding companies
12 are buying and selling exchanges frequently, and cable
13 companies are adding and subtracting cable systems
14 frequently. This information is not maintained in the
15 Commission's files in a way that's usable. As a
16 result, the facts as to the ownership of the holding
17 companies is not a problem.

18 The problem is what exchanges are there.
19 We've listed scores of exchanges in here. And we've
20 listed a relatively much smaller number of cable
21 system. But knowing which ones are on whose cable or
22 on whose telephone poll is not readily knowable.

23 Those rules, there are no reporting
24 requirements with regard to that cross-ownership
25 situation that the FCC maintains. And it's not an easy

1 thing to know. That's an example.

2 Another one is the MMDS situation where as it
3 happens the investors here do not have interests in
4 companies that are designated or which have their
5 principal business MMDS operation. And the Commission
6 and the public records as to MMDS ownership are very
7 unsatisfactory.

8 If you look at the public records, if I
9 remember correctly, there are no interests. That may
10 or not be -- we don't want to warrant that.

11 That's the factual problems we're raising.
12 Now, to add to the fun, the Commission's telephone
13 cable cross ownership rules have been amended. They
14 were amended in an order that was released August 14th.
15 Before that, the cross ownership--

16 JUDGE STIRMER: Increased the --?

17 MR. NAFTALIN: Increased from 1 percent to 5
18 percent. As near as we can tell, there are no cross
19 interest problems at the 5 percent level here. We are
20 not making any such assumption at the 1 percent level,
21 and we just plain don't know.

22 That is the state of the facts.

23 JUDGE STIRMER: But in any event, the
24 information would all be in here, would it not?

25 MR. NAFTALIN: The information is in there to

1 the extent --

2 JUDGE STIRMER: That you know it.

3 MR. NAFTALIN: -- that we know it.

4 JUDGE STIRMER: And could determine it, could
5 ascertain it, could research it.

6 MR. NAFTALIN: Yes, that's correct.

7 JUDGE STIRMER: Now, what does the Bureau
8 intend to do beyond this submission?

9 MR. MILLER: Well, I haven't had a chance to
10 really look at it to determine -- I would imagine we
11 would do some independent research and analysis to
12 determine if there were any other interests that our
13 records indicated they owned. At this point, I don't
14 anticipate any discovery because by providing this
15 list, that is pretty much the information that the
16 Bureau would have asked for in discovery.

17 JUDGE STIRMER: So you don't intend to
18 conduct any discovery? Take depositions or file
19 motions to produce or things of that nature?

20 MR. MILLER: At this point, I don't. But
21 again, once we look at this list and make a
22 determination whether we think things have been left
23 off or not, then we might have some. I don't want to
24 preclude it, but at this point I'm just saying I don't
25 anticipate any at this point.

1 JUDGE STIRMER: Well, I'm going to have to
2 establish a date by which --

3 MR. MILLER: Yes.

4 JUDGE STIRMER: We all have to know if any
5 discovery is going to be commenced.

6 MR. MILLER: Certainly. I don't have a
7 problem with establishing dates.

8 JUDGE STIRMER: All right.

9 MR. MILLER: But I just don't want to
10 preclude it at this point.

11 JUDGE STIRMER: Okay.

12 JUDGE STIRMER: How about you, Mr. Naftalin.
13 Do you anticipate any --

14 MR. NAFTALIN: I have no plans on discovery.
15 I should say we're very open and willing to provide
16 information informally to the extent we can.

17 MR. MILLER: It may be, Your Honor, that when
18 we start looking at this and trying to match up and see
19 if there are any cross interests or problems or
20 multiple ownership problems, we may ask for more
21 information. But I just don't at this point.

22 JUDGE STIRMER: Well, Mr. Naftalin said that
23 they wish to cooperate. And if you need any additional
24 information --

25 MR. MILLER: We appreciate his efforts so far

1 to provide this list. Obviously it took a lot of time
2 and effort to product.

3 JUDGE STIRMER: All right. Let's get back to
4 the personal interview. What I would like to know is
5 when and where this personal interview can take place,
6 Mr. Naftalin.

7 MR. NAFTALIN: Well, I can't answer that,
8 Your Honor. To the extent that it relates to the
9 broadcast interests identified, what I would like to do
10 is, if you would give us a date, we'll identify it by
11 that.

12 JUDGE STIRMER: Okay. I'll set a date by
13 which the Bureau and yourself will have to resolve when
14 this personal interview has to take place.

15 MR. NAFTALIN: All right.

16 JUDGE STIRMER: Mr. Miller, would you know by
17 the 18th of September whether or not you'll have any
18 discovery? That will be a week from Friday. Is that
19 sufficient time?

20 MR. MILLER: Do you want to establish that as
21 a date for letting you know whether we're going to have
22 any --?

23 JUDGE STIRMER: No, that's the date by which
24 it is to be undertaken, if there is to be any
25 additional discovery.

1 MR. MILLER: That would be sufficient.
2 Obviously, if there was an extraordinary circumstances,
3 we'd come back and file opposition.

4 JUDGE STIRMER: Well, I have in mind of
5 course Mr. Naftalin's offer to cooperate with you and
6 to provide you with any additional information that
7 they have or that you think you need.

8 We have a hearing date of October 27th. I'd
9 like to set up other procedural dates, such as an
10 exchange -- exchange of exhibits. And any date for
11 notifying witnesses for cross examination if there's to
12 be any.

13 Mr. Miller, I take it your case will
14 essentially consist of the introduction of the informa-
15 tion Mr. Naftalin has provided. Is that right?

16 MR. MILLER: Well, I don't know whether we
17 would want to put the whole document in because we
18 would be interested in ownership interests that would
19 be a violation of the rules. And whether we would want
20 to put all their interests in, even ones that we don't
21 allege to be violations -- at the most, it would
22 probably be their exhibit.

23 JUDGE STIRMER: Or whatever is relevant in
24 this exhibit as far as you're concerned.

25 MR. MILLER: Or anything other that we

1 developed. I mean, if we come up with other interests
2 or have ownership reports or something that are SEC
3 filings that show that he owns other interests that he
4 hasn't reported, then obviously we could have things
5 like that.

6 JUDGE STIRMER: Mr. Naftalin, do you have a
7 case to present, or will you be presented a case -- an
8 evidentiary case? I know you have legal arguments to
9 make.

10 MR. NAFTALIN: Yes, we will undoubtedly be
11 offering an evidentiary case in response to the
12 Bureau's. They have the burden of proof and of going
13 forward.

14 JUDGE STIRMER: Correct. What would be the
15 nature of your --?

16 MR. NAFTALIN: It depends a little bit on
17 what they offer.

18 JUDGE STIRMER: Well, let's assume they offer
19 the information that you've exchanged.

20 MR. NAFTALIN: I think they will find that
21 that's insufficient because it doesn't -- paragraph 6
22 does not require an identification of violations. I'm
23 not trying to be difficult. I just want to move this
24 along. You can count stations, alright, out of this.
25 You can't get cross interests information out of it

1 because it wasn't call for. If it is not clear, I
2 could expand on that a little bit.

3 JUDGE STIRMER: Why don't you for the benefit
4 of Bureau counsel.

5 MR. NAFTALIN: Paragraph 6 essentially called
6 for the interests in the companies by the investors and
7 essentially called for what media interests or what
8 telephone interests did those companies have.

9 Now, when it comes to the television stations
10 and radio stations, you can certainly take the
11 information in our submission and add up to the number
12 of stations for the numerical rule. But it doesn't
13 answer directly the question of where there may be
14 television station to television station overlap.

15 JUDGE STIRMER: You mean overlap of the Grade
16 B -- ?

17 MR. NAFTALIN: Right. Or a cable station
18 overlap or in the case of the New York --

19 JUDGE STIRMER: Overlap between the cable
20 system and the television station?

21 MR. NAFTALIN: In a television station that's
22 predicted Grade B contour. And it also does not
23 identify the very well known overlap between WWLR-TV.

24 JUDGE STIRMER: That's the New York
25 situation.

1 MR. NAFTALIN: The New York situation. Now,
2 as to that, we will certainly be coming in with
3 evidence that either there has been a waiver, which is
4 true, or that there ought to be a waiver of that since
5 the Commission has found there are 93 voices in New
6 York and there's a specific policy about that which
7 says if there are more than 30, you can have television
8 and radio in the same market.

9 As to the others, I think we will probably be
10 furnishing some evidence on the cross interests.

11 Also, I don't know about this but there are
12 questions as to whether interests are attributable.
13 And the circumstances regarding attributability, you
14 might say, may change between now and then. If so, we
15 would certainly furnish information.

16 MR. MILLER: Your Honor, as to the interests
17 that we identified that we thought were violations of
18 the rules, we would of course provide sufficient
19 evidence to demonstrate that, whether it's an
20 engineering study to show that the contours overlap or
21 that it's within a franchise area of a cable system.
22 So there would be that type of information, evidence,
23 that we would have to provide too. If we are going to
24 show that there's a violation, we would have to show
25 all the aspects of that violation.